

10
No. 2444

United States
Circuit Court of Appeals

For the Ninth Circuit.

MAX STEINFELDT,

Plaintiff in Error,

vs.

THE UNITED STATES OF AMERICA,

Defendant in Error.

Transcript of Record.

Upon Writ of Error to the United States District Court
of the Northern District of California,
First Division.

Filed

SEP 21 1914

F. D. Monckton,
Clerk.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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*In the District Court of the United States, for the
Northern District of California.*

No. 5247.

UNITED STATES OF AMERICA

vs.

MAX STEINFELDT.

Amended Praeceptum for Transcript.

To the Clerk of said Court:

Please make return to the Writ of Error issued by transmitting to the United States Circuit Court of Appeals for the Ninth Circuit true copies of the following, viz:

The Indictment.

Minutes showing arraignment and plea;

Minutes of Trial;

Verdict;

Judgment;

Petition for Writ of Error;

Assignment of Errors;

Writ of Errors;

Order Allowing Writ of Error;

Bill of Exceptions; [1*]

Also transmit original Writ of Error and Original Citation thereon, and certify to above as being the return to the Writ of Error, and also certify that copy of writ of error was lodged with clerk for defendant in error on date of issuance of writ.

*Page-number appearing at foot of page of original certified Record.

Dated at San Francisco, California, this 19th day of June, A. D. 1914.

PHILIP S. EHRLICH,
Attorney for Defendant.

[Endorsed]: Filed Jun. 19, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [2]

Indictment.

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

At a stated term of Court begun and holden at the
City and County of San Francisco, within and
for the State and Northern District of California,
on the first Monday of March in the year of
our Lord one thousand nine hundred and thirteen.

The Grand Jurors of the United States of America,
within and for the District aforesaid, on their
oaths present: That

MAX STEINFELDT,

heretofore, to wit, on the third day of March in the
year of our Lord one thousand nine hundred and
thirteen, at San Francisco, in the State and Northern
District of California then and there being, did
then and there wilfully, fraudulently and knowingly
receive and conceal one five tael can of opium prepared
for smoking purposes, which as he, the said

Max Steinfeldt, then and there knew,
Violation had been, imported into the United
Act of States contrary to law.

Feb. 9, 1909. AGAINST the peace and dignity of

the United States of America, and contrary to the form of the statute of the said United States of America in such case made and provided.

J. L. McNAB,

United States Attorney.

NAMES OF WITNESSES APPEARING BE-
FORE THE GRAND JURY:

JOHN W. SMITH.

[Endorsed]: A True Bill. James K. Wilson, Foreman Grand Jury. Presented in open court and filed Jun. 20, 1913. W. B. Maling, Clerk. By Francis Krull, Deputy Clerk. [3]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Monday, the 22d day of September, in the year of our Lord one thousand nine hundred and thirteen. Present: the Honorable M. T. DOOLING, Judge.

No. 5247.

U. S.

vs.

MAX STEINFELDT.

Arraignment and Plea.

The defendant being present in open court with his attorney, said defendant was then and there duly arraigned upon the indictment herein against him, to

which said indictment he then and there pleaded not guilty, which said plea was by the Court ordered entered. [4]

At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Wednesday, the 1st day of April, in the year of our Lord one thousand nine hundred and fourteen. Present: The Honorable MAURICE T. DOOLING, District Judge.

No. 5247.

UNITED STATES OF AMERICA

vs.

MAX STEINFELDT.

Minutes of Trial, etc.

In this case, the defendant Max Steinfeldt was present in person with his attorneys, George E. Price and Gilbert D. Boalt, Esqs. John W. Preston, Esq., United States Attorney, appeared on behalf of United States. The Court then ordered that the trial of this case do now proceed, and ordered that the jury-box be filled. Thereupon the following named persons were duly drawn and sworn to try the issues joined in this case, viz.:

A. W. Drummond.	George L. Center.
Charles M. Belshaw.	J. F. Cunningham.
J. H. Taylor.	Alfred P. Hampton.
Peter A. Smith.	C. R. Johnson.
D. C. Dorsey.	K. H. Plate.
Leroy W. Jackson.	J. T. Drennan.

Mr. Preston stated the case of the Government to the Court and jury, and called Louis H. Voight, Thomas F. Burke, F. G. Menrath, John W. Smith, who were each duly sworn and examined as witnesses on behalf of the United States. Mr. Preston recalled Thomas F. Burke to the stand and introduced in evidence U. S. Exhibit No. 1—one package, containing cards, opium, etc., and a suitcase containing certain opium which was marked U. S. Exhibit “A” for identification, and thereupon rested the case for the Government. Mr. Price then stated the defense of the defendant, and called Max [5] Steinfeldt, the defendant, who was duly sworn and examined, and thereupon the defendant rested his case. The case was then argued by Mr. Preston, Mr. Price and Mr. Boalt, and submitted. The Court then charged the jury, who at 3:30 P. M. retired to deliberate upon a verdict, and subsequently at 4:25 P. M. returned into court, and upon being asked in the presence of the defendant if they had agreed upon a verdict answered in the affirmative, and rendered a written verdict, which was ordered recorded, and which was in the words following: “We, the jury, find Max Steinfeldt, the defendant at the bar, guilty as charged. G. L. Center, foreman.”

The Court then ordered that the jurors in this case be and they are hereby excused from further attendance upon the court, until Friday, April 10, 1914, at 10 A. M. Further ordered that the defendant, Max Steinfeldt, be, and appear in open court on Saturday, April 4th, 1914, for sentence. [6]

*In the District Court of the United States, in and for
the Northern District of California, First Division.*

No. 5247.

UNITED STATES OF AMERICA

vs.

MAX STEINFELDT.

Verdict.

We, the jury, find Max Steinfeldt, the defendant
at the bar, guilty as charged.

G. L. CENTER,
Foreman.

[Endorsed]: Filed April 1st, 1914, at 4 o'clock and
25 minutes P. M. W. B. Maling, Clerk. Lyle S.
Morris, Deputy Clerk. [7]

*In the District Court of the United States, for the
Northern District of California, First Division.*

No. 5247.

Convicted of Receiving and Concealing Opium.

UNITED STATES OF AMERICA

vs.

MAX STEINFELDT.

Judgment on Verdict of Guilty.

John W. Preston, Esq., United States Attorney,
and the defendant with G. D. Boalt, Esq., his attorney,
came into court. The defendant was duly informed
by the Court of the nature of the Indictment

filed on the 20th day of June, 1913, charging him with the crime of receiving and concealing opium; of his arraignment and plea of Not Guilty; of his trial and the verdict of the jury on the 1st day of April, 1914, to wit: "We, the jury, find Max Steinfeldt, the defendant at the bar, guilty as charged."

The defendant was then asked if he had any legal cause to show why judgment should not be pronounced against him, and no sufficient cause being shown to the Court,

AND WHEREAS, the said Max Steinfeldt having been duly convicted in this court of the crime of receiving and concealing opium;

IT IS THEREFORE ORDERED AND ADJUDGED that the said Max Steinfeldt be imprisoned for the term of four months in the Alameda County Jail, Alameda Co., California.

Judgment entered this 9th day of April, 1914.

W. B. MALING,

Clerk.

By C. W. Calbreath,

Deputy Clerk. [8]

*In the District Court of the United States, in and for
the Northern District of California.*

No. 5247.

THE UNITED STATES OF AMERICA

vs.

MAX STEINFELDT.

Petition for Writ of Error.

Your petitioner, the above-named defendant, Max

Steinfeldt, brings this his petition for Writ of Error to the District Court of the United States in and for the Northern District of California, and in that behalf your petitioner shows :

1. That on the 9th day of April, 1914, there was made, given and rendered in the above-entitled cause a judgment against your petitioner, wherein and whereby he was adjudged and sentenced to imprisonment for a term of four months in the Alameda County Jail.

2. Your petitioner shows that he is advised by counsel and he avers that there was and is manifest error in the record and proceedings had in said cause and in the making, giving and rendition and entry of said judgment and sentence to the great injury and damage of your petitioner, all of which errors will be more fully made to appear by an examination of the said record, and by an examination of the bill of exceptions to be tendered and filed, and in the assignment of errors hereinafter set out and to be presented herewith; and to that end thereafter that the said judgment, sentence and proceedings may be reviewed by the United States Circuit Court of Appeals for the Ninth Circuit, your petitioner now prays that a Writ of Error may be issued, directed therefrom to the said District Court of the United States for the Northern [9] District of California, returnable according to law and the practice of the court, and that there may be directed to be returned pursuant thereto a true copy of the record, bill of exceptions, assignment of errors and all proceedings had in said cause, and that the same may be removed into the United States Circuit Court of Appeals for the Ninth

Circuit, to the end that the error, if any has happened, may be duly corrected, and full and speedy justice done your petitioner.

And your petitioner makes the assignment of errors presented herewith, upon which he will rely, and which will be made to appear by a return of the said record in obedience to the said Writ.

WHEREFORE, your petitioner prays the issuance of a Writ as herein prayed, and prays that the assignment of errors, presented herewith, may be considered as his assignment of errors upon the Writ, and that the judgment rendered in this cause may be reversed and held for naught, and that said cause be remanded for further proceedings, and that he be awarded a *supersedeas* upon said judgment and all necessary and proper process, including bail.

MAX STEINFELDT,

Petitioner.

PHILIP S. EHRLICH,

Attorney for Defendant.

Due service and receipt of a copy of the within is hereby admitted this 16th day of April, 1914.

JNO. W. PRESTON.

[Endorsed]: Filed Apr. 16, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [10]

*In the District Court of the United States, in and for
the Northern District of California.*

No. 5247.

THE UNITED STATES OF AMERICA

vs.

MAX STEINFELDT.

Assignment of Errors.

Max Steinfeldt, defendant in the above-entitled cause, and plaintiff in error herein, having petitioned for an order from said Court permitting him to procure a Writ of Error to this court, directed from the United States Circuit Court of Appeals for the Ninth Circuit, from the judgment and sentence made and entered in said cause against said Max Steinfeldt, now makes and files with his said petition the following assignment of errors herein, upon which he will apply for a reversal of said judgment and sentence upon the said Writ, and which said errors, and each, and everyone of them, are to the great detriment, injury and prejudice of the said defendant, and in violation of the rights conferred upon him by law; and he says that in the record and proceedings in the above-entitled cause, upon the hearing and determination thereof in the District Court of the United States, for the Northern District of California, there is manifest error in this, to wit:

1. That the Act of February 9th, 1909, Chapter 100, 35 Statutes Large, 614, the second section thereof, given in the words "or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such opium or preparation or derivative thereof after importation, knowing the same to have been imported contrary to law, such opium or preparation or derivative thereof shall be forfeited and shall be destroyed, and [11] the offender shall be fined in any sum not exceeding five thousand dollars nor less than fifty dollars or by im-

prisonment for any time not exceeding two years, or both," is contrary to the Fifth Amendment to the Constitution of the United States, in that it deprives the defendants of life and liberty without due process of law.

2. That the Act of February 9th, 1909, Chapter 100, 35 Statutes Large 614, the second section thereof, given in the words "or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such opium or preparation or derivative thereof after importation, knowing the same to have been imported contrary to law, such opium or preparation or derivative thereof shall be forfeited and shall be destroyed, and the offender shall be fined in any sum not exceeding five thousand dollars, nor less than fifty dollars, or by imprisonment for any time not exceeding two years, or both," is contrary to the Tenth Amendment to the Constitution of the United States, in that it is an assumption by Congress of powers not delegated to the United States by the Constitution.

3. That the Act of February 9th, 1909, Chapter 100, 35 Statutes at Large 614, the second section thereof, given in the words "or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such opium or preparation or derivative thereof after importation, knowing the same to have been imported contrary to law, such opium or preparation or derivative thereof shall be forfeited and shall be destroyed, and the offender shall be fined in any sum not exceeding five thousand dollars nor less than fifty dollars, or by imprisonment

for any time not exceeding two years, or both," is contrary to the Tenth Amendment to the Constitution of the United States, in that it is an assumption [12] by Congress of powers reserved to the States respectively, or to the people.

4. That the second section of the Act of February 9th, 1909, Chapter 100, 35 Stat. L. 614, given in the words, "or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such opium or preparation or derivative thereof after importation, knowing the same to have been imported contrary to law, such opium or preparation or derivative thereof shall be forfeited and shall be destroyed, and the offender shall be fined in any sum not exceeding five thousand dollars, nor less than fifty dollars, or by imprisonment for any time not exceeding two years, or both," has reference to the receiving, concealing, buying, selling, facilitating the transportation and concealment of opium by persons who knowingly and fraudulently import or bring the same into the United States, or assist in so doing; that the indictment does not charge the defendant with having fraudulently or knowingly imported or brought into the United States, or assisted in so doing, any of said opium.

5. That the indictment violates the Sixth Amendment to the Constitution of the United States in that it fails to inform the defendant of the nature of the accusation against him.

6. That the indictment is contrary to Article 1, Section 8 of the Constitution of the United States, in that it does not come within the powers of Congress

enumerated in Section 8, of Article 1, and is not a law necessary or proper to carry into execution such powers.

7. That the said acts charged in the indictment do not constitute a public offense against the laws of the United States.

8. That the indictment fails to show that the court has any jurisdiction over the alleged acts as to subject matter. [13]

9. That the indictment fails to show that the Court has any jurisdiction over the alleged acts as to persons.

10. That the indictment does not state facts sufficient to constitute a public offense against the laws of the United States.

11. That the indictment fails to sufficiently inform the defendant of the nature of the accusation against him.

12. That the verdict was against the evidence.

13. That the indictment is void in that it does not appear how or wherein said alleged importation was contrary to law.

14. That the indictment is void in that it does not appear how or when said importation was made.

15. That the indictment is void in that it does not appear how or wherein said alleged importation was contrary to law, or when said importation was made.

16. The Court erred in sentencing the defendant without his first being adjudged guilty of any crime.

17. The Court erred in pronouncing sentence of

imprisonment against said defendant.

PHILIP S. EHRLICH,

Attorney for Plaintiff in Error and Defendant.

Due service and receipt of a copy of the within is hereby admitted this 16th day of April, 1914.

JNO. W. PRESTON.

[Endorsed]: Filed Apr. 16, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [14]

*In the District Court of the United States, in and for
the Northern District of California.*

No. 5247.

THE UNITED STATES OF AMERICA

vs.

MAX STEINFELDT.

Order Allowing Writ of Error and Supersedeas.

The Writ of Error and the *supersedeas* therein prayed for by defendant Max Steinfeldt, pending the decision upon the writ of error, are hereby allowed, and the defendant is admitted to bail upon the Writ of Error in the sum of Two Thousand (\$2,000.00) Dollars. The bond for costs upon the Writ of Error is hereby fixed at the sum of \$300.00.

Dated at San Francisco, California, this 16th day of April, A. D. 1914.

M. T. DOOLING,

District Judge of the United States for the Northern
District of California.

Due service and receipt of a copy of the within is hereby admitted this 16th day of April, 1914.

JNO. W. PRESTON.

[Endorsed]: Filed Apr. 16, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [15]

Writ of Error (Copy).

UNITED STATES OF AMERICA,—ss.

The President of the United States of America, to the Honorable Judges of the District Court of the United States, for the Northern District of California, Greeting:

Because in the record and proceedings, and also in the rendition of the judgment of a plea which is in the said District Court, before you between Max Steinfeldt, plaintiff in error, and the United States of America, defendant in error, a manifest error hath happened, to the great damage of the said Max Steinfeldt, plaintiff in error, as by his complainant appears, and it being fit, that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals, for the Ninth Circuit, together with this writ, so that you have the same at the City of San Francisco, in the State of California, within thirty days from the date hereof, in the said Circuit Court of Appeals, to

be there and then held, that the record and proceedings aforesaid be inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

WITNESS, the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the Supreme Court of the United States, this 18th day of April, in the year of our Lord one thousand nine hundred and fourteen and of the Independence of the United States the one hundred and thirty-eight. [16]

The above writ of error is hereby allowed.

WM. W. MORROW,

Judge of the Circuit Court of Appeals.

Service of the within Writ of Error admitted this
— day of April, 1914.

WALTER E. HETTMAN,

Asst. U. S. District Attorney.

[Endorsed]: Filed Apr. 18, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [17]

Citation on Writ of Error (Copy).

UNITED STATES OF AMERICA,—ss.

The President of the United States, to The United States of America, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to a writ of

error duly issued and now on file in the Clerk's Office of the United States District Court for the Northern District of California, wherein Max Steinfeldt is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING, United States District Judge for the Northern District of California, this 9th day of June, A. D. 1914.

M. T. DOOLING,

United States District Judge.

Due service of the within Citation admitted this 10th day of June, 1914.

WALTER E. HETTMAN,

Asst. U. S. Atty.

[Endorsed]: Filed Jun. 10, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [18]

In the District Court of the United States, in and for the Northern District of California.

No. 5247.

THE UNITED STATES OF AMERICA

vs.

MAX STEINFELDT,

Defendant.

Bill of Exceptions.

BE IT REMEMBERED, that heretofore, the

Grand Jury of the United States, in and for the Northern District of California, did find and return in, to and before the above-entitled Court its Indictment against the defendant Max Steinfeldt, and thereafter the said Max Steinfeldt appeared in court, and upon being called to plead to said Indictment, duly pleaded not guilty, as shown by the record herein, and the cause being at issue, the same came on for trial, before the Honorable M. T. Dooling, District Judge, and a jury duly impaneled, the United States being represented by Worth E. Hettman, Esq., and the defendant being represented by George E. Price, Esq., and Gilbert D. Boalt, Esq., the following proceedings were had:

[Testimony of Louis H. Voyght, for the Government.]

LOUIS H. VOYGHT, called as witness for the United States, being duly sworn, testified:

Q. And you were manager in the month of March, 1913? A. Yes, sir. [19]

Q. Do you know the defendant Mr. Steinfeldt?

A. Yes, sir.

Q. How long had he been rooming at your place prior to March 3d?

A. Since the 22d of February.

Q. Who was living there with him?

A. His wife.

Q. I will ask you if anyone came to see him there at unusual hours. A. They did.

Q At what times, for instance?

(Testimony of Louis H. Voyght.)

A. During the night and daytime, at all times.

* * * * *

Mr. HETTMAN.—Very well. On some day prior to March 3d did you hear a conversation over the telephone between Mr. Steinfeldt and another man?

A. I did.

Mr. PRICE.—We object to that unless it is shown the witness knows who the parties were talking.

The COURT.—It is not essential he should know anybody except the defendant.

Mr. HETTMAN.—I wish to show it is in regard to an opium transaction.

The COURT.—He says he heard the conversation. The objection is overruled.

Mr. HETTMAN.—Q. Relate this conversation between the party and the defendant.

Mr. PRICE.—We object to that unless he testifies he knew the defendant's voice.

Mr. HETTMAN.—Q. You had heard the defendant's voice [20] before over the telephone?

A. Yes.

Q. Did they call him by name?

A. They called for Apartment 10.

Mr. HETTMAN.—Q. Did the party call for Mr. Steinfeldt?

Mr. PRICE.—We object to that as being a conversation having taken place not in the presence of the defendant.

The COURT.—The objection is overruled.

Q. I understand you know the defendant's voice?

A. Yes, sir, I do.

(Testimony of Louis H. Voyght.)

Q. They called up the apartment in which the defendant lived? A. Yes, sir.

Q. In response to that call somebody answered?

A. Yes, sir.

Q. And it was the voice of the defendant?

A. I am sure it was the voice of the defendant.

The COURT.—The objection is overruled.

Mr. HETTMAN.—Q. Relate the conversation as near as you can remember it of what took place and what was said.

A. As near as I can remember the party that called up asked for Apartment 10, Mr. Steinfeldt; I cannot quite—

Mr. HETTMAN.—Q. He asked for Mr. Steinfeldt?

A. He asked for Apartment 10. I want to get exactly the words if I can. He wanted to know if he had something. That is why I listened to his conversation—

Mr. HETTMAN.—(Interrupting.) Never mind that. Relate the conversation.

A. He says, “I have some of the black stuff, some coke and some snow,” and after that I notified the police department, [21] Mr. Burke.

Q. He said, “Have you got some?”—

A. That is the first word, have you got anything.

Q. Black stuff, and the second term is what?

A. Coke, from what I could understand.

Q. And snow? A. Yes, sir.

* * * * *

Q. On the 3d day of March did Mr. Steinfeldt

(Testimony of Louis H. Voyght.)

come to you and leave with you a package?

A. He and another gentleman came down the stairs towards the elevator; I don't know whether they came from the elevator or down the stairs; they left the package at the office.

Q. At the desk?

A. Yes, sir, along the counter there, with the instructions to keep the package up, don't upset it. Officer Burke did not come on Sunday, the day I telephoned to him.

Q. He left this package with the instructions to keep it up. Did he give any other instructions?

A. He said, "Somebody will call for the package; give this package to the party who may call."

Q. About what time in the afternoon was that?

A. About 2:30 or 3 o'clock; something like that. One o'clock or 2 o'clock, something around there.

Q. Was there any direction on the outside of the wrapper?

A. Mr. Steinfeldt's name was on it.

Q. I will show you the wrapping paper first and ask you if you can identify the writing in any way.

A. It resembles it. [22]

Q. What time did Mr. Steinfeldt return?

A. It must have been about 4 o'clock; 3 or 4 o'clock; it might have been later; it might have been 5 o'clock; I am not quite sure what time he returned.

* * * * *

Mr. HETTMAN.—Q. When Mr. Steinfeldt returned did he ask for the package?

(Testimony of Louis H. Voyght.)

A. He asked me whether somebody had gotten the package, and I said no. He says, "I will take it up-stairs."

Q. Was there any conversation in regard to anybody inquiring for the package?

A. How do you mean?

Q. Did you have any conversation in regard to anyone coming there inquiring for the package?

A. He asked me if somebody had gotten the package.

Q. What did you say?

A. I said, "No"; I said, "A man came in here, but he did not ask for any package." Mr. Steinfeldt asked for the package and says, "I will take it up-stairs."

Q. Was Mr. Burke there at the time?

A. Mr. Burke was sitting in the lobby.

Q. Had you seen the contents of the package prior to Mr. Steinfeldt's return before he returned?

A. Yes, sir.

Q. You had opened the package there with Mr. Burke? A. Officer Burke opened it.

Q. I will ask you if you can identify any of these articles in this package,—anything similar to that?

A. Yes, sir.

Q. Also the cans? [23]

A. Yes, sir, the contents.

Q. And can you identify any of these things in the envelope? A. I have not looked in the envelope.

Q. To your knowledge that is the contents of the package? A. Yes, sir.

(Testimony of Louis H. Voyght.)

Q. Envelope and playing-cards folded in this manner? A. Yes, sir.

Q. What did Officer Burke do?

A. He walked up the stairs after him and arrested him.

Q. Had anyone come in the building with Mr. Steinfeldt?

A. I think his wife came in and went up in the elevator. I think his wife and the other gentleman; there had been somebody with him.

Q. And Mr. Steinfeldt was about halfway up the stairs then? A. Yes, sir.

Q. When you handed him the package did he say anything in reply to it?

A. He simply asked me if anyone had called for it; I said no; he says, "I will take it up-stairs."

Mr. HETTMAN.—That is all.

* * * * * * * *

Cross-examination.

Q. You have been talking about a package having been left; do you remember what day of the week that was? A. On Monday, the 3d day of March.

Q. Just about what time of the day was that?

A. I am almost sure it was between the hour of 2, 3—1, 2 or 3 o'clock. [24]

Q. Mr. Steinfeldt came down the elevator that morning, did he not?

A. I don't know if he came down the elevator or not.

Q. He came out in the office?

A. Yes, sir, he came to the desk.

(Testimony of Louis H. Voyght.)

Q. His wife was with him, was she not?

A. I saw another gentleman with him, I am quite sure.

* * * * *

Q. You telephoned? A. Yes, sir.

Q. And Officer Burke came down in response to your telephone message?

A. Not immediately; I telephoned on Sunday and he came on Monday.

Q. And he came there and sat down?

A. Yes, sir.

Q. And you gave him the newspaper?

A. I did.

Q. And you told him that Steinfeldt would be back about what time?

A. I says somebody was to call for this package left by Steinfeldt.

Q. And did that party call for it? A. No, sir.

Q. When Mr. Steinfeldt came in you gave him that package, did you not?

A. Because Mr. Steinfeldt asked for it.

* * * * *

Q. Whereabouts did you have this package?

A. On top of the telephone exchange switch there.

[25]

Q. That is facing McAllister Street?

A. It faces the lobby—

Q. (Interrupting.) It faces McAllister Street, does it not? A. I think it does.

Q. You have a counter around the place?

A. Glass around it.

(Testimony of Louis H. Voyght.)

Q. You put it on top of the telephone exchange?

A. I do not know whether I put it there; it was put there when it was left; I think my clerk put it there perhaps.

Q. What did you do with it when it was given to you?

A. This man who was Mr. Steinfeldt left instructions to leave this package—

Q. (Interrupting.) I am asking you what you did with it when it was given to you?

A. My man put it there.

Q. Was this package turned over to you by Mr. Steinfeldt or anybody else?

A. It was turned over by Mr. Steinfeldt to the office.

Q. Was it turned over to you?

A. I am not sure.

Q. I want to be sure about it.

* * * * *

Mr. PRICE.—Q. You do not remember anybody turning a package of this sort which you have identified here over to you?

A. It was turned over in my presence to myself or the clerk; I am not sure.

Q. Did you open it at that time? A. No, sir.

Q. Who turned it over to Mr. Steinfeldt? [26]

A. I gave it to him.

[Testimony of Thomas F. Burke, for the Government.]

THOMAS F. BURKE, called as witness for the United States, being duly sworn, testified:

Q. Do you know the defendant Steinfeldt?

(Testimony of Thomas F. Burke.)

A. Yes, sir.

Q. Will you relate the circumstances under which you went to the Argyle Apartments in the course of your duty and what you did there on the 3d day of March?

A. Yes, sir. There was a note left for me at police headquarters for me to go to the Argyle Apartments, No. 146 McAllister Street; I went there in the afternoon of March 3d last year, 1913, and there I met the Manager who has just testified.

Q. While there did you see a package—was a package shown you? A. Yes, sir.

Q. Did you open it? A. I did.

Q. About what time in the afternoon did you arrive?

A. I went there in the neighborhood of 4 o'clock.

Q. I will show you the contents of the package and ask you if you can identify these.

* * * * * * * *

Q. In your experience as a police officer that would be what in its outward appearance?

A. It was opium when I seen it.

* * * * * * * *

Mr. HETTMAN.—We offer the entire package in evidence.

(The package is marked "U. S. Exhibit 1.")

Q. What did you do with the package after you had [27] examined it there with Mr. Voyght?

A. Mr. Voyght had placed it back on top of the telephone switch-board.

Q. And you remained there then?

Testimony of Thomas F. Burke.)

A. Quite a while.

Q. How long?

A. In the neighborhood of two hours.

Q. Did you see Mr. Steinfeldt come in when he returned? A. I seen him going up-stairs.

Q. Was anyone with him?

A. Not when I seen him, no, sir.

Q. Did you see him get the package from the desk?

A. I did not see him when he took the package, no, sir; I was not looking that way; I was facing a different direction, sideways to him when he came in.

Q. And you arrested him after he had the can?

A. He carried the package in his hand up the stairs when I approached him.

Q. What did you say to him?

A. I asked him what he had in the package. His answer was, "I suppose you know"; we opened the package and this was the contents of it.

Q. Any further conversation in regard to this package?

A. I asked him how it came in his possession; he claimed it belonged to somebody else. I went at that time up to his room and found nothing more in his room. I placed him under arrest.

* * * * * * * *

Cross-examination.

Q. Did you see anyone turn this package over to Mr. [28] Steinfeldt? A. No, sir.

Q. You did not? A. I did not.

* * * * * * * *

(Testimony of Thomas F. Burke.)

Recross-examination.

The COURT.—Have you had experience with opium?

A. I served in the neighborhood of 34 months in the Chinatown gambling squad, and I had lots of experience.

Q. What kind of opium is that?

A. It would be hard for me to state, the exact grade. It is unstamped opium.

Q. Is it smoking opium? A. Yes, sir.

[Testimony of F. S. Memrath, for the Government.]

F. S. MEMRATH, called as a witness for the United States, being duly sworn, testified:

Mr. HETTMAN.—Q. Do you know the defendant, Steinfeldt? A. I do.

Q. How long have you known him?

A. About 13 months.

Q. Did you ever have any dealings with opium, yourself? A. With Steinfeldt?

Q. Yes. A. Yes, sir.

Q. And you served time yourself for an offense committed of handling opium? A. I did.

Q. How long ago was it that you had any opium transaction with Mr. Steinfeldt? What date was it? [29] A. About February, last.

Q. 1913? A. Yes, sir.

Q. What was that transaction that you had with Mr. Steinfeldt? A. I sold opium to him.

Q. You did? A. Yes, sir.

Q. How many cans? A. Four.

Q. Were you paid for it?

(Testimony of F. S. Memrath.)

A. I was paid part of it.

Q. How much? A. \$50.

Q. How much more were you to get?

A. The agreement was \$15 a can.

Q. He paid you \$15 a can?

A. He did not; he paid me \$50 altogether.

Q. Where was it, what place?

A. Marshall hotel.

Q. What street?

A. Market street, San Francisco.

Q. That was about a month prior to this offense here. Did he ever pay you since that time?

A. No, sir.

Q. I will show you this can of opium and ask you if that was the kind of opium or the brand in which you were operating. A. Yes, sir.

Q. I will ask you if you can identify this suitcase.
[30] A. I do.

Q. Is that your suitcase, the one used in your trial?

A. Yes, sir.

Q. I will ask you if that was the brand of opium you were using. A. Yes, sir.

Q. You sold him, then, four cans of opium, about the 20th or 21st of February? A. Yes, sir.

Q. Of this same brand? A. Yes, sir.

Q. And this is your brand of opium in this suitcase? A. Yes, sir.

Q. And an exhibit used in your case?

A. Yes, sir.

* * * * * * * *

(Testimony of F. S. Memrath.)

Cross-examination.

Q. And after you arrived in Oakland, you had this opium you wanted to sell Mr. Steinfeldt?

A. Yes, sir; I had nine cans.

Q. Did you sell any opium to Mr. Steinfeldt?

A. I did.

Q. How much? A. Four cans.

Q. How much did you receive for it? A. \$50.

Q. For the four cans? A. Yes, sir.

Q. Where did you get those four cans of opium?

A. They were my own. [31]

Q. Where did you get them? A. Mexico.

Q. How much did you pay for them in Mexico?

A. I did not pay anything; the man who was connected with me paid the money for it.

* * * * *

Q. And you sold those four cans to Mr. Steinfeldt for \$50? A. Yes, sir; \$50.

Q. As a matter of fact—

A JUROR.—(Interrupting.) Was it gold, or Mexican money, \$17.25?

A. Gold.

Mr. PRICE.—Q. What date, if you remember, did you sell this opium to Mr. Steinfeldt?

A. I am not quite sure, but I think it was the 23d of February; I am not quite sure.

[**Testimony of John W. Smith, for the Government.**]

JOHN W. SMITH, called as a witness for the United States, being duly sworn, testified:

Mr. HETTMAN.—Q. I will ask you if that is smoking opium. A. Yes, sir.

(Testimony of John W. Smith.)

Q. I will ask you if it is stamped in any way by any government stamp showing it came in according to any law of the United States prior to the year 1909.

Mr. PRICE.—Objected to as calling for the conclusion of the witness.

The COURT.—The objection is overruled.

A. It did not legally come into the United States; [32] it is not legally imported into the United States.

Mr. HETTMAN.—Q. If that had been brought in prior to the year 1909, it would be marked in what way? A. With a customs stamp all around it.

Q. Prior to 1909, opium could be brought into the United States for medicinal purposes?

A. It can now, for medicinal purposes.

Q. For smoking purposes?

A. It could be imported prior to 1909; at that time it was stamped with a stamp going clear around it, with the stamp cancelled; they did that so the stamp could not be removed.

Q. If that was brought in prior to 1909, it would be stamped with a Government stamp?

A. Yes, sir.

Q. That, apparently, had no stamp?

A. I just—

* * * * *

A. To the best of my knowledge, it is smuggled opium.

[Testimony of Max Steinfeldt, in His Own Behalf.]

MAX STEINFELDT, the defendant, being duly sworn, testified:

Mr. BOALT.—Q. Mr. Steinfeldt, on March 3, 1913, where did you reside?

A. At the Argyle Apartments.

Q. Who was residing there with you?

A. My wife and I.

Q. On that date, did you and your wife leave the hotel? A. You mean together?

Q. Yes. A. Yes, sir. [33]

Q. What time?

A. In the afternoon, in the neighborhood of about 2 o'clock.

Q. At that time, did you come down into the lobby of the hotel? A. Yes, sir.

Q. And you entered the lobby just prior to your leaving the hotel, did you? A. Yes, sir.

Q. At that time, did you meet anyone in the lobby of the hotel? A. Yes, sir.

Q. Who?

A. A friend of mine that I had not seen for quite a long while, named Andrews, came in and met me right there in front of the office.

Q. Did you have a conversation with him?

A. Yes, sir.

Q. In regard to what?

A. I asked him to join us. I was taking my wife out to the beach; she had not been well, and I asked him to join us, and he agreed to go with us. He had a package in his hand, and he says, "Leave this in

(Testimony of Max Steinfeldt.)

your room until we come back." I says, "Leave it right here in the office, in case I am not here, and you can get it at any time." I says, "I will mark my name on it, and it will be safe here."

Q. Did you put your name on the envelope?

A. Yes, sir.

Q. Did you observe the paper that was offered in evidence this morning? A. Yes, sir. [34]

Q. You wrote on that paper? A. Yes, sir.

Q. What was done with the package?

A. I handed it to the manager at the desk and asked him to kindly take care of it, that this gentleman would call for it later this evening. "If anybody calls for me, tell them I will be back around 5 or 6 o'clock."

Q. Did you leave the hotel?

A. Yes, sir; 4 or 5 of us went out together.

Q. What time did you return to the hotel that afternoon?

A. In the neighborhood between 6 and 7 o'clock.

Q. At the time that package was given to you by this man, Andrews, did he tell you what was in the package? A. No, sir.

Q. Did you know what was in the package?

A. No, sir.

Q. You say you returned to your hotel about 6 o'clock? A. Yes, sir.

Q. What did you do upon entering the hotel?

A. We came in the back door, because the car we took left us off at the corner at the back entrance.

Q. When you say "we," who do you refer to?

(Testimony of Max Steinfeldt.)

A. My wife and I; we very seldom take the elevator, because we live on the first floor, and she started to walk up-stairs. I stepped over to the counter and started to ask the manager if anybody called for me, and he said "No." At the same time I started to go, and he handed me the package, and I immediately noticed the package was opened; it was not tight the way we left it. I said, "I will take it up-stairs and leave it in my room." [35]

Q. Did the man tell you what was in the package?

A. No, sir.

Q. Did you at any time, from the time you first saw the package in the possession of Andrews in the hotel on March 3d, up to the time it was handed to you by the clerk, know what was in the package?

A. No, sir.

Q. Where is your wife at the present time?

A. She has been sick for the last three years, off and on most of the time.

Cross-examination.

Mr. HETTMAN.—Q. Mr. Steinfeldt, when you came down the stairs on the 3d day of March, is it not a fact that this man, Andrews, came down the stairs with you? A. No, sir.

Q. Where did you meet him?

A. In the middle of the lobby, right in front of the office.

Q. Just what place in the office?

A. Right in the middle.

Q. Near the desk?

A. Right even with the desk, only I should say 18

(Testimony of Max Steinfeldt.)

feet to the center of the lobby.

Q. What greeting did he make, did he say anything to you? What did he say to you?

A. Just shook hands with me, and I said we were just going out to the beach, and asked him to take a ride out with us.

Q. Then what did he do with regard to this package?

A. He says, "All right, I will go." He says, "Leave this in your room until we come back." I says, "Are you going to [36] call for it to-day?" He says, "Yes." I says, "I will leave it right here in the office, and if I am not here you can get it." He says, "All right." I said, "I will put my name on it," and I put my name on it and handed it to the manager, and said, "This gentleman will call for the package this evening."

Q. Had this man, Andrews, been at the hotel before? A. No, sir; he just came to town.

Q. He was going to bring this package there to you? A. No, sir; he was going to call for it.

Q. He was going out with you?

A. Yes, sir, he was going out to the beach, and he said he did not want to take it with him.

Q. You put your name on the package?

A. Yes, sir.

Q. You had the package in your hand, how long?

A. Just long enough to write my name on it and walk to the desk.

Q. Did you examine the package carefully?

A. Not closely.

(Testimony of Max Steinfeldt.)

Q. Yet, when you came back immediately, you noticed the package was open?

A. I could tell, the package was all sticking out, it was not wrapped tight.

Q. You could see to the minutest detail somebody had opened the package?

A. I had my name on it; I could see it had been opened.

Q. Is it not a fact you had the package in your hand going up the stairs when you were arrested?

A. This is after we came back?

Q. You had the package in your hand? [37]

A. Yes, sir.

Q. Is it not a fact that you had a great many telephone calls coming in all hours of the night?

* * * * *

Mr. HETTMAN.—I will ask you about one particular telephone call. Q. Is it not a fact that on a certain night a man called you up and asked you if you had anything? And you said, “I have got some of the black stuff and some coke, and I have got some snow?”

* * * * *

Mr. HETTMAN.—Q. What did you mean by “snow” or “black stuff”?

A. No single message ever came to me in regard to anything like that that I ever answered.

* * * * *

Q. Did you ever hear “opium” called black stuff?

* * * * *

(Testimony of Max Steinfeldt.)

A. No, sir.

* * * * *

Q. (Mr. HETTMAN.) Is it not a fact that you purchased from Memrath some five cans of opium, and only paid him a portion of the purchase price on it?

Mr. BOALT.—Objected to as incompetent, irrelevant, immaterial and not proper cross-examination.

The COURT.—As to whether he paid for it or not is immaterial; whether he bought it or not is all right. Sustained as to the first part and overruled as to the latter.

A. No, sir.

Mr. HETTMAN.—Q. Four cans?

A. No, sir. [38]

Q. Did you ever buy any opium at all?

A. No, sir.

Q. Did you ever see this brand of opium?

A. I could not swear to it.

* * * * *

Mr. HETTMAN.—Q. Did you ever answer any telephone call, or did you pay any regard to any telephone call that anyone asked of you for coke, black stuff or snow?

* * * * *

A. No, sir.

Mr. HETTMAN.—Q. Did you ever comply with any telephone call and deliver any little packages of cocaine called “coke,” “snow” or “black stuff”?

* * * * *

A. No, sir.

(Testimony of Max Steinfeldt.)

Mr. HETTMAN.—Q. Did you ever go to the cigar store at McAllister and Jones and deliver it to anybody?

* * * * *

A. I do not know of any cigar store in that neighborhood, no, sir.

* * * * *

Mr. BOALT.—Q. Mr. Steinfeldt, at the time you returned to the hotel on the afternoon of March 3d, 1913, did you go to the desk and ask for this package?

A. No, sir.

Q. Just state to the jury what happened.

A. I came in and walked over to the desk, because I expected Doctor Gleton, and I asked if there had been any calls, and the manager said “No,” and at the *same reached* behind and got this package and handed it to me. [39]

Q. Without your asking for the package?

A. I did not. I said, “The party has not come yet.” He said, “He has not.” I took the package and took it upstairs there.

Mr. HETTMAN.—Q. Is it not a fact that Mr. Voyght said to you, “There has been a man here four times asking for you,” but he did not give him the package, because he did not say anything about the package. He said, “The man has been here four times asking for you.”

* * * * *

A. He could not have been there four times, because we had just left him at the corner, and he says, “I will be up about 8 or 9 o’clock.”

The foregoing contains all the testimony and evidence, both oral and documentary, and a full statement of the proceedings in the case. At the close of the argument of the respective counsel the Court charged the jury. After the jury had returned a verdict the Court set the 9th day of April, 1914, as the day of sentence.

The defendant, Max Steinfeldt, hereby presents the foregoing as his bill of exceptions herein, and respectfully asks that the same be allowed, signed and sealed and made a part of the record in the case.

PHILIP S. EHRLICH,

Attorney for Defendant.

Dated this 24 day of April, A. D. 1914. [40]

*In the District Court of the United States, in and for
the Northern District of California.*

No. 5247.

THE UNITED STATES OF AMERICA

vs.

MAX STEINFELDT,

Defendant.

Notice of Presentation of Bill of Exceptions.

To John W. Preston, Esq., United States Attorney,
Northern District of California, and to Worth
E. Hettman, Esq., Assistant United States At-
torney:

You will please take notice that the foregoing constitutes and is the proposed Bill of Exceptions of the defendant Max Steinfeldt, in the above-entitled

cause, and the said defendant will apply to the said Court to allow said Bill of Exceptions and to sign and seal the same as the Bill of Exceptions herein.

PHILIP S. EHRLICH,
Attorney for Defendant. [41]

*In the District Court of the United States, in and for
the Northern District of California.*

No. 5247.

THE UNITED STATES OF AMERICA

vs.

MAX STEINFELDT,

Defendant.

Stipulation In Re Bill of Exceptions.

IT IS HEREBY STIPULATED AND AGREED that the foregoing Bill of Exceptions is correct and that the same may be signed, settled, allowed and sealed by the Court.

JOHN W. PRESTON,
United States Attorney,
WALTER E. HETTMAN,
Assistant United States Attorney,
Attorneys for the United States.
PHILIP S. EHRLICH,
Attorney for the Defendant. [42]

*In the District Court of the United States, in and for
the Northern District of California.*

No. 5247.

THE UNITED STATES OF AMERICA

vs.

MAX STEINFELDT,

Defendant.

Order Making Bill of Exceptions Part of the Record.

This Bill of Exceptions having been duly presented to the Court within the time allowed by law and the rules of the Court and within the time extended by Order of the Court duly and regularly made, is now signed, sealed and made a part of the Records in the case, and is allowed as correct.

M. T. DOOLING,

Judge of the District Court of the United States,
Northern District of California.

Dated at San Francisco, California, this 9 day of
June, A. D. 1914. [43]

Due service and receipt of a copy of the within
Notice of presentation of Bill of Exceptions, is
hereby admitted this 21st day of April, 1914.

WALTER E. HETTMAN,

Asst. U. S. Atty.

Due service and receipt of a copy of within order
of Judge setting Bill of Exceptions.

WALTER E. HETTMAN,

Asst. U. S. Atty.

[Endorsed]: Filed Jun. 9, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [44]

*In the District Court of the United States, for the
Northern District of California.*

No. 5247.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MAX STEINFELDT,

Defendant.

Stipulation as to Exhibits.

IT IS HEREBY STIPULATED AND AGREED that the clerk of the above-named court need not transmit a certified copy or any copy of the original exhibits or the exhibits themselves in the above-entitled cause to the United States Circuit Court of Appeals for the Ninth Circuit, but that if necessary the original exhibits may be referred to and obtained from the clerk at the argument before the Circuit Court.

Dated at San Francisco, California, this 9 day of June, A. D. 1914.

P. S. EHRLICH,

Attorney for Defendant.

WALTER E. HETTMAN,

Asst. U. S. Attorney.

[Endorsed]: Filed Jun. 9, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [45]

*In the District Court of the United States, in and for
the Northern District of California.*

No. 5247.

THE UNITED STATES OF AMERICA

vs.

MAX STEINFELDT,

Defendant.

**Stipulation Extending Time in Which to Prepare
and Serve Proposed Bill of Exceptions.**

IT IS HEREBY STIPULATED AND AGREED
that the defendant above named may have to and
including the ninth day of May, 1914, in which to
prepare and serve his proposed Bill of Exceptions
in said cause.

Dated at San Francisco, California, this 14th day
of April, A. D. 1914.

WALTER E. HETTMAN,

Asst. United States Attorney.

PHILIP S. EHRLICH,

Attorney for Defendant.

IT IS SO ORDERED.

Dated at San Francisco, California, this 14th day
of April, A. D. 1914.

_____,
Judge.

[Endorsed]: Filed Apr. 15, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [46]

*In the District Court of the United States, in and for
the Northern District of California.*

No. 5247.

THE UNITED STATES OF AMERICA

vs.

MAX STEINFELDT,

Defendant.

**Stipulation Extending Time for U. S. to Propose
Amendments to Bill of Exceptions.**

IT IS HEREBY STIPULATED that the United States of America may have to and including the first day of June, 1914, in which to propose amendments to defendant's Bill of Exceptions.

Dated San Francisco, Cal., this 8th day of May, 1914.

JNO. W. PRESTON.

P. S. EHRLICH.

[Endorsed]: Filed May 8, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [47]

*In the District Court of the United States, in and for
the Northern District of California.*

No. 5247.

THE UNITED STATES OF AMERICA

vs.

MAX STEINFELDT,

Defendant.

**Stipulation and Order Extending Time for U. S. to
Propose Amendments to Bill of Exceptions.**

IT IS HEREBY STIPULATED AND AGREED
that the United States of America in the above-en-
titled action may have to and including the 20th day
of June, 1914, in which to propose amendments to
defendant's proposed Bill of Exceptions herein.

P. S. EHRLICH,

WALTER E. HETTMAN,

Asst. U. S. Atty.

IT IS SO ORDERED.

M. T. DOOLING,

Judge of the District Court.

[Endorsed]: Filed Jun. 1, 1914. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [48]

**Certificate of Clerk U. S. District Court to Transcript
of Appeal.**

I, W. B. Maling, Clerk of the District Court of the
United States of America for the Northern District
of California, do hereby certify that the foregoing
48 pages, numbered from 1 to 48, inclusive, contain a
full, true and correct Transcript of certain records
and proceedings, in the case of the United States of
America vs. Max Steinfeldt, numbered 5247, as the
same now remain on file and of record in the Clerk's
office of said District Court; said Transcript having
been prepared pursuant to and in accordance with
the "Amended Praeceptum for Transcript" (copy of
which is embodied in this Transcript), and the in-

structions of Philip S. Ehrlich, Esquire, attorney for plaintiff in error herein.

I further certify that the costs of preparing and certifying the foregoing Transcript on Writ of Error is the sum of Twenty-seven Dollars (\$27.00), and that the same has been paid to me by the attorney for the plaintiff in error.

Annexed hereto is the Original Writ of Error (pages 50 and 51), with the return of the said District Court to said Writ of Error attached thereto (page 52), and the Original Citation on Writ of Error (pages 53 and 54).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 29th day of June, A. D. 1914.

[Seal]

W. B. MALING,
Clerk.

By Lyle S. Morris,
Deputy Clerk. [49]

Writ of Error (Original).

UNITED STATES OF AMERICA,—ss.

The President of the United States of America, to the Honorable Judges of the District Court of the United States, for the Northern District of California, Greeting:

Because in the record and proceedings, and also in the rendition of the judgment of a plea which is in the said District Court, before you, between Max Steinfeldt, plaintiff in error, and the United States of America, defendant in error, a manifest error

hath happened, to the great damage of the said Max Steinfeldt, plaintiff in error, as by his complaint appears, and it being fit, that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals, for the Ninth Circuit, together with this writ, so that you have the same at the City of San Francisco, in the State of California, within thirty days from the date hereof, in the said Circuit Court of Appeals, to be there and then held, that the record and proceedings aforesaid be inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

WITNESS, the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the Supreme Court of the United States, this 18th day of April, in the year of our Lord one thousand nine hundred and fourteen and of the Independence of the United States the one hundred and thirty-eight.

The above writ of error is hereby allowed.

WM. W. MORROW,

Judge of the Circuit Court of Appeals. [50]

Service of the within Writ of Error admitted this
— of April, 1914.

WALTER E. HETTMAN,

Asst. U. S. District Attorney.

[Endorsed]: No. 5247. United States District Court, Northern Division of California. United States of America vs. Max Steinfeldt. Writ of Error. Filed Apr. 18, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [51]

Return to Writ of Error.

The Answer of the Judges of the District Court of the United States of America, for the Northern District of California, to the within Writ of Error.

As within we are commanded, we certify under the seal of our said District Court, in a certain schedule to this Writ annexed, the record and all proceedings of the plaint whereof mention is within made, with all things touching the same, to the United States Circuit Court of Appeals, for the Ninth Circuit, within mentioned, at the day and place within contained.

We further certify that a copy of this Writ was on the 10th day of June, A. D. 1914, duly lodged in the case in this court for the within named defendant in error.

By the Court:

[Seal]

W. B. MALING,
Clerk United States District Court, Northern District of California.

By Lyle S. Morris,
Deputy Clerk. [52]

Citation on Writ of Error (Original).

UNITED STATES OF AMERICA,—ss.

The President of the United States, to the United States of America, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to a writ of error duly issued and now on file in the Clerk's Office of the United States District Court for the Northern District of California wherein Max Steinfeldt is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING, United States District Judge for the Northern District of California, this 9th day of June, A. D. 1914.

M. T. DOOLING,

United States District Judge. [53]

Due service of the within Citation admitted this 10th day of June, 1914.

WALTER E. HETTMAN,

Asst. U. S. Atty.

[Endorsed]: No. 5247. U. S. Circuit Court of Appeals for the Ninth Circuit. Max Steinfeldt, Plaintiff in Error, vs. United States of America, De-

fendant in Error. Citation on Writ of Error. Filed Jun. 10, 1914. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [54]

[Endorsed]: No. 2444. United States Circuit Court of Appeals for the Ninth Circuit. Max Steinfeldt, Plaintiff in Error, vs. The United States of America, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court of the Northern District of California, First Division.

Received July 7, 1914.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

Filed July 8, 1914.

FRANK D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.